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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,151	01/13/2005	Joachim Hasch	P27125	9119
7055 7590 04/07/2009 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191				
EXAMINER THOMAS, ALEXANDER S				
ART UNIT		PAPER NUMBER		
1794				
NOTIFICATION DATE		DELIVERY MODE		
04/07/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

### Office Action Summary

**Application No.**

10/521,151

**Applicant(s)**

HASCH ET AL.

**Examiner**

Alexander Thomas

**Art Unit**

1794

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 4 and 7-23 is/are pending in the application.
- 4a) Of the above claim(s) 11-18, 20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 7-10, 19, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 103***

2. Claims 1, 2, 4, 7-10, 19, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima 5,098,762 in view of Sean et al 6,696,167, Ellis 4,661,398 and either Rionda et al 4,486,115 or the European patent document 0481941.

Applicant's arguments have been considered but are not deemed persuasive for the reasons of record. Applicant argues that Nakajima requires his product to have a smooth surface and, because OSB inherently has a rough surface, it would not have been obvious to use OSB in the product of Nakajima. This is not convincing since it presumes that all OSB inherently has a rough surface and there is no disclosure to support such a statement. Applicants also argue that the generic teaching of the equivalence of wood and OSB in Sean et al does not constitute a reason to replace the wood pieces with OSB in the product of Nakajima. This is also not convincing. Column 1, lines 16-19 of Sean et al clearly provide a reason to replace wood with OSB in view of the disclosure of OSB being "widely employed as substitutes for solid wood".

Applicant further argues that Sean et al does not teach the equivalence of wood and OSB in plywood and that it would not make sense to utilize OSB in plywood because OSB board is expensive to manufacture compared to the plywood pieces used in Nakajima. This is not convincing since there is nothing of record to support the allegations regarding the cost of manufacture. Concerning the use of a nail plate,

applicant argues that the reference's plywood, and plywood in general, by definition requires that the layers or pieces of wood be bonded together with glue and thus the use of a nail plate in place of the adhesive would change the reference's plywood to something other than plywood. This is not persuasive because the secondary references suggest the use of a *nail plate with adhesives*; see column 3, lines 48-51. And thus, the use of a nail plate in the plywood of the primary reference would not require removal of the adhesive and would not change the plywood to something other than plywood as applicant alleges. Applicant further argues that adding the nail plate to the product of the primary reference would add weight to the product detracting from the object of being lightweight. This is not convincing because the primary reference discloses that its main concern is the ability to use small logs to provide plywood that is adjustable in density and strength; see column 1, lines 23-27. Therefore, the addition of a nail plate in the product of the primary reference would have been obvious to one of ordinary skill in the art if additional strength requirements out-weighed low weight requirements for a particular end use. Concerning the claimed plastic mat, applicant argues that it would not have been obvious to modify the product in the primary reference to use Ellis' fabric along with a nail plate since Ellis's coating/fabric alone would serve to bond the plies together and there would be no reason to add the additional nail plate. This is not convincing because the primary reference discloses the use of a fabric in his laminate and Ellis is merely cited to suggest the use of a "plastic" fabric as the fabric in the primary reference's product. Concerning claim 2, applicant argues that it would not be obvious to use both a nail plate and mechanical connecting

means. This is not convincing. The use of multiple types of well-known fasteners, such as nail plates and nails, would clearly be obvious to one of ordinary skill in the art since the use of multiple types of fasteners for multiple effect is within the purview of one of ordinary skill in the art. Concerning the discussion of Rionda, applicant argues that this reference teaches away from using additional mechanical connecting means and cites column 1, lines 10-24 as support. This is not convincing. Column 1, lines 10-24 of Rionda is directed to the background art and not the disclosed invention. Clearly, the invention disclosed in Rionda is an improvement over the disclosure at column 1, lines 10-24 and there is no suggestion or disclosure in Rionda that precludes the use of his nail plate with other fastening means. Concerning applicant's request that the examiner provide a reference to support his prior taking of official notice. Allen 2,249,590 is cited to show that it is well-known in the laminate art to use mechanical means such as nails to attach together layers of material; see for example Figure 2. In response to applicant's argument that the examiner has combined an excessive number of references in the rejection of claim 8, reliance on a large number of references in a rejection does not, without more, weigh against the obviousness of the claimed invention. See *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991). Applicant also argues that the primary reference teaches specific dimensions for the wood pieces which do not fall within the claimed ranges and thus should be allowed. This is not convincing. The primary reference specifically recites small pieces because he is trying to find a use for less often used small diameter logs; see column 1, lines 11-28. Clearly, it would have been obvious to one of ordinary skill in the art to adjust the

size of the pieces of wood in the prior art product if larger sized logs are available, such a change in size being within the level of ordinary skill in the art.

3. **Prior Art**

4. Allen 2,249,590 is cited to show the well-known technique of nailing a plurality of wood boards together.

**Conclusion**

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 571-272-1502. The examiner can normally be reached on 6:30-4:00 M-THUR.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Thomas/  
Primary Examiner  
Art Unit 1794